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Case 6887

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :  
BRITTA DAUME :  
Serial No.: 09/491,841 :  
Filed: August 23, 1999 :  
For: A DEVICE FOR CONTACTING IN :  
PARTICULAR ELONGATED, :  
ILLUSTRATIVELY SUBSTANTIALLY :  
CYLINDRICAL BODIES SUCH AS :  
CABLES OR PIPES/TUBES :

LETTER

Honorable Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22312-1450

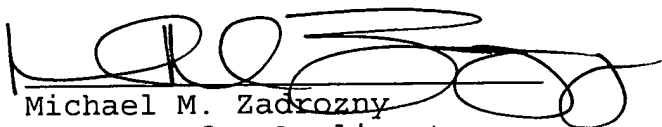
Dear Sir:

A Request for a Reinstatement together with a Supplemental Appeal Brief was filed on August 28, 2003.

The last line on page 2 of the Request for Reinstatement contains a printing error. A corrected page 2 of the Request for Reinstatement is attached. It is requested the examiner substitute this corrected page for that filed on August 28, 2003.

Respectfully submitted,

Date: AUG. 29, 2003

  
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Over a three year period, applicant has expended considerable effort in their attempt to resolve a single issue with the examiner; namely, the failure of certain prior art (Cauderay et al. and Tinnerman '627) to suggest combination and therefore *prima facie* obviousness.

These efforts included filing several responses and requests for reconsideration, a continued prosecution application after issuance of a first final rejection, and conducting a personal interview with the examiner prior to receiving a second final rejection. Notwithstanding the above, the examiner maintained the rejection in no less than five separate office actions thereby exhausting applicant's options and necessitating filing of an appeal and brief. The arguments provided in the brief are essentially the same as those submitted throughout prosecution.

In response the examiner reopened prosecution and withdrew the rejection, agreeing with applicant's long-standing position that the prior art failed to meet the minimum requirements of *prima facie* obviousness. More significantly, the examiner applied a new rejection based upon prior art (Ellinwood) which was of record and available to the examiner since the time of the first office action over three years ago. Applicant had not necessitated this new rejection by either changing the claims on appeal or otherwise shifting the issues concerning patentability. Also, applicant must now respond at this late stage of the proceedings to yet another indefinite rejection even though all previous issues concerning claim indefiniteness had been